

REMARKS

This is a full and timely response to the outstanding final Office Action mailed November 14, 2005 (Paper No. 20051108). Upon entry of this response, claims 71-72, 74, 80-83, and 103-107 are pending in the application. In this response, claims 71-72, 74, 80-83, and 103-106 have been amended, and claims 70 and 73 have been cancelled.

Applicants respectfully request that the amendments being filed herewith be entered. The claim amendments made herein are directed to matters of form. Specifically, claims 71 and 103 have been put into independent form, claims 71, 103, and 104 have been amended to correct an antecedent basis error, and claims 72, 74, 80-83, and 104-106 have been amended to depend from an independent claim. Applicants respectfully request that there be reconsideration of all pending claims.

1. Rejection of Claims 71, 73, and 103-107 under 35 U.S.C. § 112, Second Paragraph

Claims 71, 73, and 103-107 have been rejected under 35 U.S.C. §112, second paragraph, as alleged being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as his invention. Specifically, the Office Action states that claims 71, 73, and 103-107 have insufficient antecedent basis for “the parameter”. (Office Action, p. 2.) Claims 71 and 103-107 are amended to recite “the operating parameter.” Applicant believes the amendment overcomes the rejection of claims 71 and 103-107, and requests that the rejection of claims 71 and 103-107 be withdrawn. Claim 73 has been cancelled, and thus the rejection of claim 73 is rendered moot.

2. Rejection of Claims 70-72, 80-83, and 103-107 under 35 U.S.C. §103

Claims 70-72, 80-83, and 103-107 have been rejected under §103(a) as allegedly obvious over *Pregont et al.* (5,351,245) in view of *Averbuch* (5,288,933). Applicant respectfully submits that the rejection of claims 70, 72, 80-83, and 103-107 has been overcome by claim amendments made herein, and that the rejection of claim 71 has been rendered moot by claim cancellation. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claim 70

Claim 70 is cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of this cancelled claim in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the cancelled subject matter to the public. Applicant expressly reserves the right to present cancelled claim 70, or variants thereof, in continuing applications to be filed subsequent to the present application.

b. Claim 71

Amended claim 71 recites “a receiver for developing a received signal, where said receiver comprises an adaptive device chosen from the group consisting of an equalizer, echo-canceller, adapted gain device, and timing loop, the adaptive device having at least one operating

parameter; and a digital signal processor (DSP), where said DSP comprises...means for saving the operating parameter, if said frame check sequence indicates that said received signal is error free.”

The Office Action alleges that

Step 515 Figure 5 in *Pregont et al.* teaches a counter for calculating and storing a count parameter. If the received signal is error free the same count parameter as before is stored in the counter.

(Office Action, p. 5.)

Applicant respectfully disagrees. *Pregont et al.* teaches what happens when an error is found, but says nothing explicitly about what happens to the counter when no error is found. A person of ordinary skill in the art would understand that the value of the counter remains unchanged when no error is found. However, person of ordinary skill in the art would not understand *Pregont et al.* to teach that the unchanged value is written to the counter again, because such an access would take unnecessary CPU cycles and memory access.

However, Applicant will assume, *arguendo*, that FIG. 5 of *Pregont et al.* teaches saving the counter if the received signal is error free. Even so, the counter disclosed in Figure 5 of *Pregont et al.* is not an operating parameter of an equalizer, echo-canceller, adapted gain device, or timing loop as recited in amended claim 71.

The Office Action further alleges that “col. 5, lines 1-14 of *Averbuch* teaches that the DSP of Figure 2 is subject to a CRC operating parameter.” (Office Action, p. 5.) However, there is no teaching in *Averbuch* that the CRC is an operating parameter of an equalizer, echo-canceller, adapted gain device, or timing loop as recited in amended claim 71.

Accordingly, the proposed combination of *Pregont et al.* in view of *Averbuch* does not teach at least the above-described features recited in amended claim 71. Therefore, Applicant

respectfully submits that amended claim 71 overcomes the rejection, and requests that the rejection be withdrawn.

c. Claims 72 and 80-83

Claims 72 and 80-83 have been amended to depend from now-independent claim 71. Since claim 71 is allowable for at least the reasons argued above, Applicant respectfully submits that claims 72 and 80-83 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant respectfully requests that the rejection of claims 72 and 80-83 be withdrawn.

d. Claim 103

Claim 103 has been amended, and now recites “a receiver for developing a received signal, where said receiver comprises an adaptive device chosen from the group consisting of an equalizer, echo-canceller, adapted gain device, and timing loop, the adaptive device having at least one operating parameter; and a digital signal processor (DSP), where said DSP comprises...means for storing the calculated value as a last known good value if a message received from a remote device indicates the calculated value is acceptable.”

The Office Action alleges (p. 5) that the counter in Step 515 Figure 5 in *Pregont et al.* corresponds to the “means for calculating a value for the parameter” and the “means for storing the calculated value as a last known good value if a message received from a remote device indicates the calculated value is acceptable” as recited in amended claim 103. Applicant respectfully disagrees.

Applicant will assume, *arguendo*, that the counter variable in *Pregont et al.* is a parameter. Based on this assumption, Applicant agrees that incrementing a counter corresponds

to calculating a value for the counter (parameter) and to storing the calculated value. However, *Pregont et al.* teaches that the counter is incremented when an error is found. Thus, the condition for incrementing the counter depends on the received data, and not on the value of the counter itself.

In contrast, claim 103 recites that the calculated value is stored “if a message received from a remote device indicates the *calculated value* is acceptable.” Even assuming that the presence of errors in the received data stream in *Pregont et al.* “indicates” that the data is “acceptable”, these errors do not indicate anything about whether or not the calculated value of the counter is acceptable.

Averbuch does not disclose, teach, or suggest the above described features. Accordingly, the proposed combination of *Pregont et al.* in view of *Averbuch* does not teach at least the above-described features recited in amended claim 103. Therefore, Applicant respectfully submits that amended claim 103 overcomes the rejection, and requests that the rejection be withdrawn.

e. Claims 104-106

Claims 104-106 have been amended to depend from now-independent claim 71. Since claim 71 is allowable, Applicant respectfully submits that claims 104-106 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant respectfully requests that the rejection of claims 104-106 be withdrawn.

3. Rejection of Claims 73-74 under 35 U.S.C. §103

Claims 73-74 have been rejected under §103(a) as allegedly obvious over *Pregont et al.* (5,351,245) in view of *Averbuch* (5,268,933) and *Chow et al.* (5,623,513).

a. Claim 73

Claim 73 is cancelled without prejudice, waiver, or disclaimer, and the rejection of this claim is therefore rendered moot. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of this cancelled claim in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the cancelled subject matter to the public. Applicant expressly reserves the right to present cancelled claim 73, or variants thereof, in continuing applications to be filed subsequent to the present application.

b. Claim 74

Applicant traverses the rejection of claim 74. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

Applicant respectfully submit that claim 74 is allowable for at least the reason that the proposed combination of *Pregont et al.* in view of *Averbuch* and *Chow et al.* does not disclose, teach, or suggest at least the feature of “said frame check sequence is used to adapt a receive margin level based on said received signal” as recited in claim 74.

Applicant can find no discussion in the cited references of receive margin level, or adapting receive margin level, or using frame check sequence to adapt receive margin level. If this rejection is maintained in the next Office Action, Applicant requests that the Office Action

point out with particularity where the combination of references discloses, teaches, or suggests the above-described feature of claim 74, as prescribed under MPEP section 706.02(j).


Since the proposed combination does not teach at least the above-described features recited in claim 74, a *prima facie* case establishing an obviousness rejection has not been made. Thus, claim 74 is not obvious under the proposed combination of *Pregont et al.* in view of *Averbuch* and *Chow et al.*, and the rejection should be withdrawn.

CONCLUSION

Applicant respectfully request that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 71-72, 74, 80-83, and 103-107 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted,

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